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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,917	08/07/2001	Takao Kojima	381NP/50284	8475

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Washington, DC 20044-4300

EXAMINER

KIM, CHONG HWA

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/922,917

Applicant(s)

KOJIMA ET AL.

Examiner

Chong H. Kim

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4-7 is/are allowed.
- 6) ☒ Claim(s) 1,2 and 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The Examiner acknowledges the applicant's Amendment filed Jan 15, 2004 in response to the Office action made on Sep 15, 2003 and canceling of claim 3.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Mack, U.S. Patent 2,464,327.

Mack shows, in Figs. 1-3, a pedal device for a vehicle having a pedal member 20 depressed by the driver, and arm member 29 engaged with the pedal member, for turning when the pedal member is depressed, and transmitting driver's force-on-pedal to the brake master cylinder 32, further comprising;

a footrest 22 configured to restrict the turning of the arm member when the driver's force-on-pedal which acts on pedal member is less than a predetermined value (the predetermined value can be construed as being the amount of force that is required to turn the pedal member 20 about the shaft 27);

wherein the pedal member is composed of footplate 21 to be depressed by the driver, and a protruding portion 24 engaged with the footplate, on which driver's heel can be put; and

wherein the heel putting part is a protruding portion fixed to the bottom of the footplate.

Allowable Subject Matter

3. Claims 4-7 are allowed.

Response to Arguments

4. In response to the applicant's argument that Mack patent fails to disclose a pedal member functioning as a brake pedal that releases the arm member from the restriction of movement when the pedal member experiences a force that exceeds a predetermined value and that Mack does not lead to the advantages shown by the present invention, it is discussed above in the paragraph 2, that Mack's patent discloses such device as recited in claims 1 and 8. It is a common knowledge that when an element is pivotably supported at a fulcrum between two ends, it is inherent by nature that an operator can manipulate the movement of the element according to the operator's desire. And such movement can not be realized without any force acted on the element. By virtue of placing a foot on the element with the heel being placed on the foot rest 22 of Mack, one must overcome a force that is created by the heel in order to press down the pedal portion 21 thus making the arm member 29 to pivot. Therefore it can be construed that the footrest is configured to restrict the turning of the arm member when the force-on-pedal which acts on pedal member is less than a predetermined value. Furthermore, it is immaterial whether the present invention is a better device or not, as long as the Mack discloses the subject matter recited in the claims.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chong H. Kim whose telephone number is (703) 305-0922. The examiner can normally be reached on Tuesday - Friday; 8:00 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Bucci can be reached on (703) 308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3682

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

chk
March 23, 2004


CHONG H. KIM
PRIMARY EXAMINER